

toric or archeological resources poses a potential economic liability. As a result, a discovery may become "unnoticed" by the contractor to avoid the uncompensated burden that the discovery brings.

The Owner's Right to Terminate the Contract for the Purpose of Protecting Significant Historic or Archeological Materials. There is always the possibility that a discovery is of such magnitude that the entire project may have to be canceled. For example, the discovery of burial grounds would pose a sensitive problem. Therefore, the contract should reserve the owner's right to terminate the contract should a significant archeological or paleontological site be found. While the power of such provisions is seldom exercised, it is considered appropriate to address such a possibility.

Establish Any Other Project Specific Provisions. When drafting the contract, it is wise to consider any other information that might be appropriate for inclusion. For example, if significant historic or prehistoric sites were located in the vicinity of the construction site, it would be appropriate to give some particulars such as a site map indicating areas with high archeological potential, or photographs illustrating examples of

the types of historic material that may be found. In this way, the construction personnel would be alerted to watch for archeological evidence. This material should be reviewed at the pre-construction conference as an orientation for the key on-site personnel.

Conclusions and Recommendations. While pre-construction historic and archeological assessments of project sites have proven to be an invaluable tool for safeguarding the integrity of some sites, the process is not infallible and unanticipated discoveries are routinely found after construction has begun. A few simple provisions can be added to most standard construction contracts to mitigate the potential for damage to or total destruction of the site's historic, archeological, and paleontological integrity. It is not sufficient, however, to simply include a comment about potential discoveries of historic and archeological materials in the construction contract, instead, contract clauses must be carefully crafted, or the effort will be in vain.

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